

## **IC 36-7-9**

### Chapter 9. Unsafe Building Law

#### **IC 36-7-9-1**

Sec. 1. This chapter applies to each consolidated city and its county. This chapter also applies to any other municipality or county that adopts an ordinance under section 3 of this chapter.  
*As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1982, P.L.33, SEC.33.*

#### **IC 36-7-9-2**

Sec. 2. As used in this chapter:

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by him is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

- (1) recorded in the office of the county recorder; or
- (2) the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.4.*

#### **IC 36-7-9-3**

Sec. 3. The legislative body of a municipality or county may adopt this chapter by ordinance. The ordinance must specify the executive department of the unit responsible for the administration of this chapter or establish such a department. However, in a municipality in which a commissioner of buildings was appointed to administer IC 18-5-5 (before its repeal on September 1, 1981), the commissioner of buildings is responsible for the administration of this chapter. The ordinance must also incorporate by reference the definition of "substantial property interest" in this chapter.  
*As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1982, P.L.33, SEC.34; P.L.3-1990, SEC.126.*

#### **IC 36-7-9-4**

Sec. 4. (a) For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) in an impaired structural condition that makes it unsafe to a person or property;
- (2) a fire hazard;
- (3) a hazard to the public health;
- (4) a public nuisance;
- (5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) vacant and not maintained in a manner that would allow human habitation, occupancy, or

use under the requirements of a statute or an ordinance;  
is considered an unsafe building.

(b) For purposes of this chapter:

(1) an unsafe building; and

(2) the tract of real property on which the unsafe building is located;

are considered unsafe premises.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.9.*

#### **IC 36-7-9-4.5**

Sec. 4.5. (a) In Indiana, especially in urban areas, there exist a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

(b) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(c) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(d) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(e) Many vacant structures are situated on narrow city lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(f) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(g) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(h) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(i) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.

(j) The general assembly finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.

(k) In recognition of the problems created in a community by vacant structures, the general assembly finds that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local governmental bodies to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.

*As added by P.L.14-1991, SEC.10. Amended by P.L.1-1992, SEC.186.*

#### **IC 36-7-9-5**

Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, or fire hazardous material in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) removal of part of an unsafe building;

(7) removal of an unsafe building; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;  
in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

- (1) the name of the person to whom the order is issued;
- (2) the legal description or address of the unsafe premises that are the subject of the order;
- (3) the action that the order requires;
- (4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;
- (5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;
- (6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), or (a)(4) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;
- (7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;
- (8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and
- (9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

- (1) A complaint requesting judicial review is filed under section 9 of this chapter.
- (2) A contract for action required by the order is let at public bid under section 11 of this chapter.
- (3) A civil action is filed under section 17 of this chapter.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.5; P.L.14-1991, SEC.11.*

### **IC 36-7-9-6**

Sec. 6. (a) The enforcement authority may issue an order that modifies the order previously issued.

(b) The enforcement authority may rescind an order previously issued, even if the order has been affirmed by the hearing authority.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.6.*

### **IC 36-7-9-7**

Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter. An order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(e) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(f) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (e).

(g) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(h) A civil penalty under subsection (d) may be collected in the same manner as costs under section 13 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

*As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.26; P.L.59-1986, SEC.7; P.L.14-1991, SEC.12.*

Sec. 8. (a) An action taken under section 7(d) of this chapter is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

- (1) any person who has a substantial property interest in the unsafe premises; or
- (2) any person to whom that order was issued.

(b) A person requesting judicial review under this section must file a verified complaint including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten (10) days after the date when the action was taken.

(c) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

*As added by Acts 1981, P.L.309, SEC.28.*

#### **IC 36-7-9-9**

Sec. 9. (a) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(b) The department, acting through the enforcement authority, may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against the persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the enforcement authority found it necessary to take emergency action. The department is not liable for the costs of this civil action.

(c) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this chapter's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the enforcement authority's determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.8.*

#### **IC 36-7-9-10**

Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter to be performed by a contractor if:

- (1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;
- (2) the order has not been complied with;
- (3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and
- (4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, to be performed if:

- (1) service of an order, in the manner prescribed by section 25 of this chapter, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;
- (2) the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;
- (3) the order, as affirmed or modified at the hearing, has not been complied with; and
- (4) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that the enforcement authority intends to perform the work by publication, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.9.*

## IC 36-7-9-11

Sec. 11. (a) The work required by an order of the enforcement authority may be performed in the following manners:

(1) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the cost of this work is estimated to be less than five thousand dollars (\$5,000), the department, acting through its enforcement authority or other agent, may perform the work by means of its own workers and equipment owned or leased by it. Notice that this work is to be performed must be given to all persons with a substantial property interest, in the manner prescribed in subsection (c) at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the estimated cost of this work is five thousand dollars (\$5,000) or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by section 12 of this chapter is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through its enforcement authority or other governmental agency and using its own workers and equipment owned or leased by it. Work performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by section 12 of this chapter.

(b) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 12(a)(1) of this chapter.

(c) All persons who have a substantial property interest in the unsafe premises and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter must be notified about the public bid in the manner prescribed by section 25 of this chapter, by means of a written statement including:

- (1) the name of the person to whom the order was issued;
- (2) a legal description or address of the unsafe premises that are the subject of the order;
- (3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) a description of work to be accomplished;
- (5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
- (6) the time of the bid opening;
- (7) the place of the bid opening; and
- (8) the name, address, and telephone number of the enforcement authority.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(e) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a substantial property interest in the property and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter.

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.10.*

### **IC 36-7-9-12**

Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.11.*

### **IC 36-7-9-13**

Sec. 13. (a) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after the completion of the work, the enforcement authority does not act under section 13.5 of this chapter, and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) the name and last known address of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the

order requiring the work to be performed was recorded to the time that the work was completed;

- (2) the legal description or address of the unsafe premises that were the subject of work;
- (3) the nature of the work that was accomplished;
- (4) the amount of the unpaid bid price of the work that was accomplished; and
- (5) the amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

(b) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by section 25 of this chapter.

(c) If, within thirty (30) days after the notice required by subsection (b), a person named in the record files with the clerk of the circuit court a written petition objecting to the claim for payment and requesting a hearing, the clerk shall enter the cause on the docket of the circuit or superior court as a civil action, and a hearing shall be held on the question in the manner prescribed by IC 4-21.5. However, issues that could have been determined under section 8 of this chapter may not be entertained at the hearing. At the conclusion of the hearing, the court shall either sustain the petition or enter a judgment against the persons named in the record for the amounts recorded or for modified amounts.

(d) If no petition is filed under subsection (c), the clerk of the circuit court shall enter the cause on the docket of the court and the court shall enter a judgment for the amounts stated in the record.

(e) A judgment under subsection (c) or (d), to the extent that it is not satisfied under IC 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named. The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(f) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.12; P.L.7-1987, SEC.167; P.L.247-1989, SEC.3; P.L.31-1994, SEC.12.*

### **IC 36-7-9-13.5**

Sec. 13.5. (a) This section does not apply to the collection of an amount if a court determines under section 13 of this chapter that the enforcement authority is not entitled to the amount.

(b) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work, the enforcement authority may send notice under section 25 of this chapter to each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The notice must require full payment of the amount owed within thirty (30) days.

(c) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:

- (1) The name of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
- (2) The description of the unsafe premises, as shown by the records of the county auditor.
- (3) The amount of the delinquent payment, including all costs described in section 12 of this chapter.

(d) The county auditor shall place the total amount certified under subsection (c) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.

(e) An amount collected under subsection (d), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

(f) A judgment entered under section 13 of this chapter may be collected under this section. However, a judgment lien need not be obtained under section 13 of this chapter before a debt is certified under this section.

*As added by P.L.31-1994, SEC.13.*

#### **IC 36-7-9-14**

Sec. 14. (a) The enforcement authority shall establish in its operating budget a fund designated as the unsafe building fund. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(b) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

(1) Money received as payment for or settlement of obligations or judgments established under sections 9 through 13 and 17 through 22 of this chapter.

(2) Money received from bonds posted under section 7 of this chapter.

(3) Money received in satisfaction of receivers' notes or certificates that were issued under section 20 of this chapter and were purchased with money from the unsafe building fund.

(4) Money received for payment or settlement of civil penalties imposed under section 7 of this chapter.

(5) Money received from the collection of special assessments under section 13.5 of this chapter.

(c) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this chapter, including:

(1) the cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

(2) the cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

(3) the cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) the cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by section 25 of this chapter;

(5) the bid price of work by a contractor under section 10 or sections 17 through 22 of this chapter;

(6) the cost of emergency action under section 9 of this chapter; and

(7) the cost of notes or receivers' certificates issued under section 20 of this chapter.

(d) Payment of money from the unsafe building fund must be made in accordance with applicable law.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.13; P.L.31-1994, SEC.14.*

#### **IC 36-7-9-15**

Sec. 15. The board or commission having control over the department may transfer all or part of the money in a building, demolition, repair, and contingent fund that was established by IC 18-5-5-7 (before its repeal on September 1, 1981) to the unsafe building fund.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.3-1990, SEC.127.*

#### **IC 36-7-9-16**

Sec. 16. (a) If the owners or those in possession of a building refuse inspection, an inspection

officer of the enforcement authority may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building. The court shall issue the warrant subject to the following conditions:

(1) The person seeking the warrant must establish that the building to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.

(2) An affidavit establishing one (1) of the grounds described in subdivision (1) must be signed under oath or affirmation by the affiant.

(3) The court must examine the affiant under oath or affirmation to verify the accuracy of the affidavit.

(b) The warrant is valid only if it:

(1) is signed by the judge of the court and bears the date and hour of its issuance above that signature, with a notation that the warrant is valid for only forty-eight (48) hours after its issuance;

(2) describes (either directly or by reference to the affidavit) the building where the search or inspection is to occur so that the executor of the warrant and owner or the possessor of the building can reasonably determine what property the warrant authorizes an inspection of;

(3) indicates the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal; and

(4) is attached to the affidavit required to be made in order to obtain the warrant.

(c) A warrant issued under this section is valid for only forty-eight (48) hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within seventy-two (72) hours.

*As added by Acts 1981, P.L.309, SEC.28.*

#### **IC 36-7-9-17**

Sec. 17. The department, acting through its enforcement authority or a person designated by the enforcement authority, may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.15.*

#### **IC 36-7-9-18**

Sec. 18. A court acting under section 17 of this chapter may grant a mandatory or prohibitory injunction against any person that will cause the order to be complied with, if it is shown that:

(1) an order, which need not set a hearing date, was issued to the person;

(2) the person has a property interest in the unsafe premises that are the subject of the order that would allow the person to take the action required by the order;

(3) the building that is the subject of the order is an unsafe building; and

(4) the order is not being reviewed under section 8 of this chapter.

*As added by Acts 1981, P.L.309, SEC.28.*

#### **IC 36-7-9-19**

Sec. 19. (a) A court acting under section 17 of this chapter may impose a civil forfeiture not to exceed one thousand dollars (\$1,000) against any person if the conditions of section 18 of this chapter are met. The forfeiture imposed may not be substantially less than the cost of complying with the order, unless that cost exceeds one thousand dollars (\$1,000). The effective date of the forfeiture may be postponed for a period not to exceed thirty (30) days, after which the court may

order the forfeiture reduced or stricken if it is satisfied that all work necessary to fully comply with the order has been done.

(b) On request of the enforcement authority the court shall enter a judgment in the amount of the forfeiture. If there is more than one (1) party defendant, the forfeiture is separately applicable to each defendant. The amount of a forfeiture that is collected shall be deposited in the unsafe building fund.

*As added by Acts 1981, P.L.309, SEC.28.*

### **IC 36-7-9-20**

Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a not-for-profit corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

(6) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

(7) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.16.*

**IC 36-7-9-21**

Sec. 21. (a) A court acting under section 17 of this chapter may authorize the department, acting through its enforcement authority, to cause the action required by the order to be performed by a contractor licensed and qualified under law, if it is shown that:

- (1) an order was issued to each person having a substantial property interest in the unsafe premises;
- (2) each of the orders has been affirmed or modified at a hearing in such a manner that all persons having substantial property interest in the unsafe premises that are the subject of the orders are currently subject to an order requiring substantially identical action;
- (3) the order, as affirmed or modified at the hearing, has not been complied with;
- (4) the building that is the subject of the order is an unsafe building; and
- (5) the order is not being reviewed under section 8 of this chapter.

(b) If the enforcement authority requests permission to cause the action required by the order to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(c) The cost of the work and the processing expenses incurred by the enforcement authority computed under section 12 of this chapter, may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.13.*

**IC 36-7-9-22**

Sec. 22. (a) A court acting under section 17 of this chapter may set a hearing to be held within ten (10) days after the filing of a complaint alleging the existence of unsafe premises presenting an immediate danger to the health and safety of the surrounding community sufficient to warrant emergency action. Upon a finding at the hearing in favor of the department, the court may:

- (1) permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law;
- (2) permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law after the defendants have had a reasonable time, as established by the court, to make the unsafe premises safe and have failed to complete the necessary action; or
- (3) grant a mandatory injunction relative to the unsafe premises that would require a defendant who has an interest in the premises that allows the defendant to take corrective action to immediately make the premises safe.

In granting relief under subdivision (2) or (3) the court shall set a date certain for the completion of the necessary action and shall hold a hearing within ten (10) days after that date to determine whether the necessary action has been completed.

(b) The issuance of an order concerning the unsafe premises is not a prerequisite to permission by the court to cause action to be performed on the unsafe premises. If an order has been issued concerning the unsafe premises, it does not prevent the permission by the court to cause action to be performed on the unsafe premises.

(c) If the enforcement authority requests authority to cause action on the unsafe premises to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) The cost of accomplishing the work may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.14.*

**IC 36-7-9-23**

Sec. 23. A change of venue may not be allowed in an action filed under section 8, 13, or 17 of this chapter, but a change of judge shall be allowed in the same manner as is provided for other civil matters.

*As added by Acts 1981, P.L.309, SEC.28.*

**IC 36-7-9-24**

Sec. 24. An action filed under section 8 or 17 of this chapter takes precedence over other pending litigation, and shall be tried and determined by the court at as early a date as possible.

*As added by Acts 1981, P.L.309, SEC.28.*

**IC 36-7-9-25**

Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

- (1) sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;
- (2) delivering a copy of the order or statement personally to the person to be notified; or
- (3) leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified.

(b) If, after a reasonable effort, service is not obtained by a means described in subsection (a), service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section 5(b) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority.

(c) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

- (1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his dwelling or usual place of abode.
- (2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.
- (3) Notice by publication is considered given on the date of the second day that publication was made.

(e) Notice of orders, notice of continued hearings without a specified date, and notice of a statement that public bids are to be let need not be given to a person holding a property interest in an unsafe premises if:

- (1) no instrument reflecting the property interest held by the person is recorded in the recorder's office of the county where the unsafe premises is located;
- (2) the order or statement was recorded in accordance with section 26 of this chapter; and
- (3) the enforcement authority has received neither written information nor actual notice of the identity of the person who holds a property interest in the unsafe premises.

A person who fails to record an instrument reflecting an interest in his unsafe premises is considered to consent to action taken under this chapter relative to which notice would otherwise be given.

*As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.27; P.L.59-1986, SEC.15.*

**IC 36-7-9-26**

Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section 5 or 6(a) of this chapter, statements of rescission issued under section 6(b) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which an order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter. The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of an order takes that interest, whether or not a hearing has been held, subject to the terms of the order and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

*As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.290-1985, SEC.9; P.L.59-1986, SEC.16.*

**IC 36-7-9-27**

Sec. 27. (a) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(A) the full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

(B) the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(b) If a judgment is obtained against the department, enforcement authority, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in unsafe premises in an action taken by the entity under this chapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

*As added by Acts 1981, P.L.309, SEC.28*

**IC 36-7-9-28**

Sec. 28. A person who:

- (1) remains in, uses, or enters a building in violation of an order made under this chapter;
- (2) knowingly interferes with or delays the carrying out of an order made under this chapter;
- (3) knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this chapter; or
- (4) fails to comply with section 27 of this chapter;

commits a Class C infraction. Each day that the violation continues constitutes a separate offense.  
*As added by Acts 1981, P.L.309, SEC.28.*